IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.10571 of 1999

Dated: 28-03-2007

Between:

Pulamala Bulli Venkanna, s/o Muttaiah.

... Petitioner

and

Special Deputy Collector (Tribal Welfare),
Kotaramachandrapuram,
West Godavari District.

... Respondent

ORDER:

This writ petition is filed seeking a *mandamus* to declare the action of respondent in issuing notice, dated 19-04-1999 to petitioner, as arbitrary and illegal and consequently direct respondent not to dispossess petitioner from the land in an extent of Ac.4-85 cents in R.S.No.78 situated at Kotaramachandrapuram, Buttaigudem Mandal, West Godavari District, pending disposal of the writ petition.

2. It is the case of petitioner that he is the absolute owner and possessor of the land in an extent of Acs.4-85 cents in R.S.No.78 situated at Kota Ramachandrapuram of Buttaigudem Mandal having purchased the same from one Uppala Veerabhadraiah in the year 1960 and since then he has been in peaceful possession and enjoyment of the said land.

The Special Deputy Tahsildar (Tribal Welfare), Kota Ramachandrapuram lodged a complaint being S.R.No.40 of 1983 against petitioner before the Special Deputy Collector alleging that he was in possession of the above land in contravention of the provisions of A.P.S.A.L.T. Regulation 1 of 1959 as amended by Regulation 1 of 1970. The Special Deputy Collector, Tribal Welfare, Eluru after elaborate enquiry, on 29-06-1985 while disallowing the claim of the Special Deputy Tahsildar (Tribal Welfare), Kota Ramachandrapuram, held that petitioner is the absolute owner and possessor of the said land having valid title and he is in possession of the said land not in contravention of the provisions of A.P.S.A.L.T.Reg.1/59 as amended by Reg.1/70. Against the said orders, the Special Deputy Tahsildar (Tribal Welfare), Kota Ramachandrapuram has not filed any appeal. It is stated that though the order dated 29-06-1985 passed by respondent has become final and in force, the respondent issued the impugned notice directing the petitioner to appear before him for enquiry to be conducted on 28-04-1999 at 11-00 A.M.

3. Heard learned counsel for the parties.

4. The grievance of the petitioner is that with regard to the very same land another Special Deputy Collector issued a notice to him and thereafter passed an order dated 29-06-1985 in S.R.No.40/83 holding that there is no violation of the provisions of A.P.S.A.L.T.

Regulation 1 of 1959 as amended by Regulation 1 of 1970.

5. In the light of the same, this Court is of the view that respondent - Special Deputy Collector ought not to have issued another notice again to hold an enquiry into the very same allegations and he also cannot be permitted to hold repeated enquiries. When once the respondent had gone into the matter, held an enquiry and gave a finding, which is in favour of the petitioner, in my considered view, the respondent is prohibited from issuing the impugned notice.

6. Accordingly, the writ petition is allowed and the impugned notice, dated 19-04-1999 is hereby set aside. No costs.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.28-03-2007
GLV